

Ordinance No. \_\_\_\_\_

ORDINANCE: To generally amend Chapter 16 entitled  
“Public Ethics” of the Rockville City Code  
so as to bring it into compliance with the  
provisions of State law

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that  
Chapter 16 of the Rockville City Code entitled “Public Ethics” be amended as follows:

Chapter 16

**PUBLIC ETHICS**

**ARTICLE I. IN GENERAL**

**Sec. 16-1. Definitions.**

The words used in this chapter shall have the meanings assigned to them in section 1-2 and their normal accepted meanings except as set forth below:

*Appointed officials* means officials of the City appointed to their position by the Council, whether salaried or not.

*Business entity* means any corporation, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit. Business entity does not include a governmental entity.

*Child* includes a child, adopted child, stepchild, foster child or grandchild, of whatever age.

*City Attorney* means the City Attorney or [Assistant City Attorney designated by him] other attorney designee.

Dependent child means a child that is claimed as a dependent for income tax return purposes

Designated Boards and Commissions means the Planning Commission, Board of Appeals and Historic District Commission.

*Doing business with* means:

- (1) Having or negotiating a contract that involves the commitment of one thousand dollars (\$1,000.00) or more of City-controlled funds; or
- (2) Being regulated or otherwise under the authority of an entity; or
- (3) Being registered as a lobbyist in accordance with section 16-76.

*Domestic Partner* means a relationship between two individuals who:

- (1) Are co-habiting and are not related to each other by blood or marriage;
- (2) Are not married or in a civil union or domestic partnership with another individual;
- (3) Agree to be in a relationship of mutual interdependence in which each individual contributes to the maintenance and support of the other individual and the relationship, even if both individuals are not required to contribute equally to the relationship; and
- (4) For whom two or more of the following conditions exist:
  - (i) Joint liability of the individuals for a mortgage, lease or loan;
  - (ii) A joint checking account, joint investments, or a joint credit account;
  - (iii) A joint renter's or homeowner's insurance policy;
  - (iv) Coverage on the other individual's health insurance policy;
  - (v) Joint responsibility for child care, such as guardianship or school documents; or
  - (vi) A relationship or cohabitation contract.

*Elected officials* means the Mayor and members of the Council[[, the Board of Appeals, the Planning Commission and the Historic District Commission]].

*Employment* means any occupation, trade, or profession for which a person receives compensation from another person for private, as opposed to governmental, services rendered.

*Financial interest* means:

- (1) Ownership of any interest as a result of which the owner has received, within the past three (3) years, or is presently receiving, or in the future is entitled to receive, more than one thousand dollars (\$1,000.00) per year; or
- (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than three (3) percent of a business entity by a City of Rockville official or employee, or the spouse of an official or employee.

*Gift* means the transfer of anything of economic value regardless of the form without adequate and lawful consideration [in excess of ten dollars (\$10.00) in value. Notwithstanding the above, the purposes of the lobbying disclosure provisions contained in section 16-76, "gift" means the transfer of anything of economic value regardless of the form without adequate and lawful consideration]. "Gift" does not include the

solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of [[Article 33, Section 26-1 et seq.,]] Section 13-101, et seq., of the Elections Article of the Annotated Code of Maryland, Chapter 8 “Elections” of the Rockville City Code, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions.

*Immediate family* means an individual’s, domestic partner, spouse and dependent children.

*Interest* means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly. In addition to any legal or equitable economic interest owned or held, interest shall also mean and include negotiations undertaken for the purpose of actually acquiring or obtaining a legal or equitable economic interest. For purposes of sections 16-64 and 16-69 "interest" applies to any interests held at any time during the calendar year for which a required statement is to be filed. "Interest" does not include:

- (1) An interest held in the capacity of a personal agent, representative, custodian, fiduciary, or trustee, unless the holder has an equitable interest therein;
- (2) An interest in a time or demand deposit in a financial institution;
- (3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period; or
- (4) A common trust fund or a trust which forms part of a pension or profit-sharing plan which has more than twenty-five (25) participants and which has been determined by the Internal Revenue Service to be a qualified trust under [Sections 401 and 501 of] the Internal Revenue Code [of 1954].

*Municipal custodian* means the City Clerk or any other designated municipal official who acts as the keeper or caretaker of the official municipal records.

*Official and/or employee* means any person elected to, appointed to or employed by the City or any City agency, board, commission, or similar entity whether or not paid in whole or in part with City funds and whether or not compensated.

*Proper authority* means the City Manager for salaried employees and all others, except the Council shall be the "proper authority" for the City Manager, City Clerk, and City Attorney and his or her assistants.

*Salaried decision-making employees* means those salaried or contract employees of the City identified as professional and supervisory personnel, by the City Manager, based upon the provisions and regulations of the Fair Labor Standards Act.

*Salaried nondecision-making employees* means all employees of the City other than salaried decision-making employees.

Qualified relative means a spouse, domestic partner, parent, child or sibling.

### **Sec. 16-2. Purpose and policy.**

(a) The Council, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

(b) It is evident that this confidence and trust is eroded when the conduct of the City's business is subject to improper influence and can be eroded where there is even the appearance of improper influence.

(c) For the purpose of guarding against improper influence, the Council enacts this chapter to require City officials and employees to disclose their financial affairs and to set minimum standards for their conduct of City business.

(d) It is the intention of the Council that this chapter, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose.

[(e) The Council, in order to further implement the operation of this chapter, adopted a policy statement on August 13, 1984, the terms and provisions of which have been incorporated into this chapter in order to further clarify the intent and commitment of the Council to a strong ethics ordinance.]

### **Sec. 16-3. Administration.**

(a) There is an Ethics Commission that consists of 5 members appointed by the Mayor with the confirmation of the Council. The Mayor shall consult with each Councilmember prior to the appointment of the original Commission members. The Commission shall:

- (1) Devise, receive, and maintain all forms required by this Chapter.
- (2) Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to this Chapter regarding the applicability of the provisions of this Chapter to them.
- (3) Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter; and
- (4) Conduct a public information program regarding the purposes and application of this Chapter.

(b) Composition; qualifications for membership. At least one member of the Commission must be an attorney licensed to practice law in any state in the United States.

including the District of Columbia, and must be a member in good standing. Each member of the Commission must meet the following qualifications:

(1) The member must reside in the City [[and be registered to vote in the City]]:

(2) During the member's term of office the member must not:

(A) Hold or be a candidate for any state, county or local elected or appointed office;

(B) Be an employee of the state, a political subdivision of the state or a public body created by the state or a political subdivision of the state.

(c) Term. Commission members serve for a term of three (3) years, except that the initial appointment of one member shall be for one year, two (2) members for two (2) years; and two (2) members for three (3) years. Any vacancy must be filled only for the remainder of the unexpired term. A commission member may continue to serve until the Council confirms a successor.

~~(d) Chairperson. The Commission shall elect its own chairperson from among its appointed members. The chairperson shall serve for one year and is eligible for reappointment as Chair.~~

[(b)] (d) Interpretation. The City Attorney shall be responsible for interpreting this Chapter and advising [persons subject to its application] the Commission.

(e) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the City of Rockville is in compliance with the requirements of State Government Article Title 15, Subtitle 8 Annotated Code of Maryland for elected local officials.

(f) The Commission shall periodically review this chapter to determine if changes are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland and shall forward any recommended changes and amendments to the Mayor and Council for enactment.

(g) The Commission may adopt other policies, [[and]] procedures and regulations to assist in the implementation of the Commission's programs established in this chapter.

[(b)] (h) Municipal Custodian. The Municipal Custodian shall be the custodian of all forms submitted by any person in accordance with this chapter.

[(c)] (i) Advisory opinions. Any official or other person subject to the provisions of this chapter may request [[the [City Attorney] Commission for]] an advisory opinion from the Commission concerning the application of this chapter. The [City Attorney] Commission shall respond promptly to these requests, providing [interpretations of this

chapter] an opinion based on the facts provided or reasonably available to [him] the Commission. Copies of these [interpretations] opinions, with the identity deleted, shall be made available to the public.

[(d)](j) Complaints. Any person may file with the [City Attorney] Commission a complaint alleging a violation of any of the provisions of this chapter. These complaints shall be written and under oath. If, upon review and investigation, the [City Attorney] Commission determines that there are insufficient facts upon which to base a determination of a violation, [he] it may dismiss the complaint. If there is a reasonable basis for believing a violation has occurred, the [City Attorney] Commission shall notify the alleged violator of the nature and circumstances of the alleged violation in writing and shall advise the person of the steps necessary to be taken to comply with the provisions of this chapter.

(k) The Commission shall provide ethics training to the City's elected officials, candidates for elected office, employees and board and commission appointees, as necessary and appropriate.

#### **Sec. 16-4. Enforcement.**

(a) The Ethics Commission may:

(1) Assess a late fee of \$2.00 per day up to a maximum of \$250.00 for a failure to timely file a financial disclosure statement required under Division II of this chapter.

(2) Assess a late fee of \$10.00 per day up to a maximum of \$250.00 for a failure to file a timely lobbyist registration or lobbyist report required under Section 16-76 of this chapter.

(b) Upon a finding of a violation of any provision of this chapter, the Commission may:

(1) Issue an order of compliance directing the respondent to cease and desist from the violation;

(2) Issue a reprimand;

(3) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if the discipline is authorized by law; or

(4) Impose a fine of up to \$5,000 for any violation of the provisions of this Chapter, with each day upon which the violation occurs constituting a separate offense.

(c) Upon direction by the [Council] Commission, the City Attorney, or designee, may file a petition for injunctive or other relief in the Circuit Court for [the] Montgomery County, or any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter. Upon direction by the Commission, the City Attorney, or other designated attorney, may seek:

(1) To have the court issue an order to cease and desist from the violation;

(2) To have the court void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within ninety (90) days of the occurrence of the official action, if the court deems voiding the action to be in the best interests of the public; provided, however, that the court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes or other evidence of public obligation.

(d) If the Commission finds that a respondent has violated Section 16-76 (lobbying requirements) of this Chapter, the Commission may:

(1) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under Section 16-76 (lobbying requirements) of this Chapter.

(2) Impose a fine not exceeding \$5,000 for each violation; and

(3) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated section 16-76 (Lobbying provisions) of this chapter or has been convicted of a criminal offense arising from lobbying activities.

**[Sec. 16-5. Violation of chapter declared; penalty for violation.]**

[(a)] (e) A [ny] violation of the provisions of Section 16-76 (lobbying provisions) of this chapter shall constitute a misdemeanor, conviction of which shall subject the violator to a fine not exceeding [one] ten thousand dollars [(\$1,000.00)] (\$10,000) or imprisonment for a term not exceeding [six (6) months] one year, or both fine and imprisonment in the discretion of the court.

[(b)] (f) In addition to any other enforcement provisions in this Chapter a person who the Commission or a court finds has violated this Chapter:

(1) May be subject to termination or other disciplinary action, removal from office, or other sanction by the appropriate authority as provided by law; and

(2) May be suspended by the appropriate authority from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

[(a) In the event a person subject to chapter 15 violates any provision of this chapter, the City Manager, in his discretion, may suspend, demote, dismiss or take other punitive action as may be provided in the personnel regulations against such employee. The personnel action taken by the City Manager may be in addition to or in lieu of prosecution as provided in subsection (a).]

(g) A finding of a violation of this Chapter by the Commission is public information.

## **ARTICLE II. CONFLICTS OF INTEREST**

### **Sec. 16-21. Scope.**

This article is applicable to any person, whether compensated or not, whether full-time or part-time, who holds a position or appointment of any kind or nature in the government of the City.

### **Sec. 16-22. Disclosure of confidential information.**

[[No elected or appointed official or salaried employee (decision-making or nondecision-making) shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City, nor shall he or she use such information to advance the financial or other private interest of himself/herself or others.]]

Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

### **Sec. 16-23. Gifts [of] or favors.**

(a) (1) No elected or appointed official or salaried employee (decision-making or nondecision-making) shall directly or indirectly solicit any gift , [[or facilitate the solicitation of any gift or accept any gift on behalf of another person, from an individual regulated lobbyist]], whether in the form of service, loan, thing, employment, or promise, from any person, firm or corporation [[which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City]]. (2) No elected or appointed official or salaried employee (decision-making or nondecision-



making) shall directly solicit any gift or facilitate the solicitation of any gift on behalf of another person, from an individual regulated lobbyist, whether in the form of service, loan, thing, or promise.

(b) An elected or appointed official or salaried employee (decision-making or nondecision-making) may not knowingly accept a gift, directly or indirectly from a person that the official or employee knows or has the reason to know:

(1) is doing business with or seeking to do business with the City;

(2) Has a financial interest that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(3) Is engaged in an activity regulated or controlled by the official's or employee's department within the City.

(4) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

[(b)] (c) Notwithstanding subsections (a) and (b) above, and [[E]] except as provided in subsection (d) below, [[subsections (a) and (b) do[es] not apply to]] an official or employee may accept the following unsolicited gifts:

(1) Ceremonial gifts or awards which have insignificant monetary value;

(2) Unsolicited gifts of nominal value that do not exceed \$20.00 in cost or memorabilia of nominal value or trivial items of informational value;

(3) Reasonable expenses for food, travel, or out-of-town lodging when an official or employee is scheduled for participation in a panel or speaking engagement at a meeting;

(4) Gifts of tickets or free admissions extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office [to professional or intercollegiate sporting events, or charitable, cultural or political events, if the purpose of such a gift or admission is a courtesy or ceremony extended to the office];

(5) Gifts from a person[s] related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee;

(6) Meals and beverages consumed in the presence of the donor or sponsoring entity.

(7) A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the City and that the gift is purely personal and private in nature;

(8) Honoraria for speaking at or participating in a meeting, provided that the offering of the honorarium is not related in any way to the official's or employee's official position.

(d) Paragraph (c) above does not apply to a gift:

- (1) that would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;
- (2) of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee;  
or
- (3) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

#### **Sec. 16-24. Representing private interests before agencies or courts.**

No member of the council or salaried employee (decision-making or nondecision-making) may assist or represent the private interests of another for compensation in any matter before or involving the City or any agency of the City. No appointed or elected official shall assist or represent the private interests of another where such appointed or other elected official has any official involvement with respect to determination of the private interest. No official or employee shall represent private interests in any action or proceeding against the interests of the City in any litigation to which the City is a party other than personal injury cases involving the City, except that such official or employee upon disclosing his interest and providing evidence of no official involvement to the proper authority, may represent a parent, spouse, child, ward, or other person for whom he is a personal fiduciary. [No official or employee shall assist or represent the private interests of another for contingent compensation before any agency of the City.] Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the City.

#### **Sec. 16-25. Dealing with city when interested.**

[Any elected or appointed official or salaried employee (decision-making or nondecision-making) who has an interest in any business entity, transaction, or contract with the City,

or who has an interest in the sale of real estate, materials, supplies, or services to (or from) the City, or who has an interest which would be directly and economically impacted by the outcome of any other transaction distinct from the public at large, shall make known to the proper authority the nature and extent of such interest, and shall refrain from participating in the transaction or in the making of such contract or sale. In this section, "interest" includes the interest of the spouse, parents, children or business associates of the official or employee.]

(a) All elected or appointed officials or salaried employees (decision making or nondecision making) are subject to this section.

(b) Except as permitted by Commission regulation or opinion, an official or employee must not participate in:

(1) Any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest;

(2) Any matter in which any of the following is a party:

(i) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(ii) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner or employee;

(iii) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;

(iv) A business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative if the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee;

(v) An entity, doing business with the City in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(vi) A business entity that:

(A) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

(B) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(3) A person who is disqualified from participating under paragraphs (1) or (2) of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

(i) The disqualification leaves a body with less than a quorum capable of acting;

(ii) The disqualified official or employee is required by law to act; or

(iii) The disqualified official or employee is the only person authorized to act.

**Sec. 16-26. Land use decisions.**

Any elected or appointed official or salaried employee (decision-making or nondecision making) who has an interest in any proceeding or in any other manner regarding annexation, zoning or the use of land, or who has an interest which would be directly and economically impacted by the outcome of any proceeding, distinct from the public at large, regarding annexation, zoning, or other use of land (or whose spouse, parents, children, siblings or business associates have such interest) shall make known to the proper authority the nature and extent of such interest and shall disqualify himself on the record.

**Sec. 16-27. Employment restrictions.**

(a) Except when such interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict and as permitted by Commission regulation, an elected or appointed official or salaried employee (decision-making or nondecision-making) may not (1) be employed by, or have a financial interest in, any entity subject to his authority or that of the City agency, board, or commission with which he or she is affiliated or any entity which is negotiating or has entered into a

contract with that agency, board or commission, or (2) hold[s] any other employment relationship which would impair his/her impartiality or independence of judgment.

(b) Subject to other provisions of law, including other portions of this article, the prohibition contained in [[this]] subsection (a) of this section does not apply to a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided, it is publicly disclosed to the appointing authority and the [City Attorney] Commission.

(c) A former elected or appointed official or salaried employee (decision-making or nondecision-making) may not assist or represent another party other than the City for compensation in a case, contract, or other specific matter involving the City if that matter is one in which he or she significantly participated as an official or employee. Compensation, for purposes of this subsection, does not include court-ordered reimbursement of out-of-pocket expenses including courts costs and attorney's fees.

(d) A former member of the Mayor and Council may not assist or represent another party for compensation in a matter that is the subject of legislative action for a period of two years after leaving office.

#### **Sec. 16-28. Use of prestige of office.**

No elected or appointed official or salaried employee (decision-making or nondecision-making) may intentionally use the prestige of his office for his own private gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office for private gain or that of another.

#### **Sec. 16-29. Special restrictions on council.**

(a) *Decisions.* Any member of the Council disqualified from voting on any item of business pursuant to sections 16-24, 16-25 and 16-26, shall continue to be disqualified from voting for a period of one (1) year after termination of such interest unless such disqualification is waived by a majority vote of the remaining members of the Council. Any member of the Council may abstain or may request the abstention of another member of the Council from voting on and participating in any discussion of any item of business that the particular Councilmember feels may present a violation of this chapter.

(b) *Closed sessions.* Any item of business discussed by the Council in closed session that would require a member of the Council to refrain from discussion if such item of business occurred in open public session, shall require that the member of the Council absent himself from discussion of that item in closed session. Any member required to absent himself from the discussion of an item of business in closed session, shall not be supplied with any documentation or information by the staff of the city in connection with the discussion of the item of business in closed session.

Section 16-30. Restrictions on Procurement

An individual or a person that employs an individual who assists a City department in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement. The Commission may establish exemptions from the requirements of this subsection for providing descriptive literature, sole source procurements, and written comments solicited by the procuring department.

**ARTICLE III. FINANCIAL DISCLOSURE**  
**DIVISION 1. GENERALLY**

**Sec. 16-46. Appointed officials and employees.**

(a) All appointed officials and salaried decision-making employees shall file with the Municipal Custodian, on or before April 15 of each year during the person's term in office or period of employment, a financial disclosure statement, under oath or affirmation, which shall disclose gifts [in excess of twenty-five dollars (\$25.00) in value or a series of gifts totaling one hundred dollars (\$100.00) or more] from any one (1) person received at any time during the calendar year immediately preceding such year from entities doing business with the City. Said financial disclosure statement shall include the approximate value of each gift disclosed. Persons filing statements pursuant to section 16-63 or Section 16-68 shall not be required to file the additional statement described in this subsection.

(b) All officials and employees shall file a written statement, under oath or affirmation, with the Municipal Custodian disclosing any interest or employment that raise a conflict[s] of interest or [[potential]] the appearance of a conflict of interest in connection with a specific proposed action by the employee or official, [the holding of] which would require disqualification from participation pursuant to sections 16-25 and 16-26 sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

(c) The reports filed pursuant to this section shall be maintained by the Municipal Custodian as public records available for public inspection and copying in accordance with Sections 16-63(i) and 16-68(h).

DIVISION 2. ELECTED OFFICIALS AND[[,]] CANDIDATES FOR ELECTED  
OFFICE,  
[[MEMBERS OF CERTAIN BOARDS]]

Note: A division 3 has been added to apply to certain bds and commissions

**Sec. 16-61. Scope.**

All elected officials or those appointed to fill the vacant office of an elected official~~[[,]]~~ and all candidates for elective office~~[[, and all applicants for appointment to the Board of Appeals, the Planning Commission, and the Historic District Commission]]~~ are required to file the statements provided for in this division.

**Sec. 16-62. Removal for failure to file financial disclosure statement.**

In addition to any other penalties and enforcement actions provided for in this chapter, failure to file a financial disclosure statement under sections 16-61 and 16-63 shall constitute cause for removal of an elected official from office. Upon the failure of an elected official to file his/her financial disclosure statement as required, the Council shall hold a public hearing for the purpose of considering the removal of the elected official from office as provided for under the provisions of Article 23A, section 2(b)(25) of the Annotated Code of Maryland, presently in effect and as may be amended from time to time. Failure to file a financial disclosure statement as required by this chapter shall be prima facie evidence of nonfeasance in office.

**Sec. 16-63. Statement required.**

(a) Except as provided in subsection (d) below, ~~[[E]]~~ each elected official shall file with the Municipal Custodian, on or before April 15 of each year during the person's term in office, the statement required by this division, for the calendar year immediately preceding each such year in office. ~~[[ The statement shall be under oath or affirmation. ]]~~

(b) Except for a person who has filed a statement pursuant to subsection (a) for the same year or portion of the same year for which a statement otherwise would be required to be filed by this subsection, each candidate for election to office shall file with the Municipal Custodian, at or before the same time that person's nominating petition is filed, the statement required by this division, for the calendar year immediately preceding the year in which that nominating petition is filed and by April 15 annually thereafter until the election.

~~[[c) Except for a person who has filed a statement pursuant to subsection (a) for the same year or portion of the same year for which a statement otherwise would be required to be filed by this subsection, each applicant for appointment to the Board of Appeals, Historic District Commission, ~~[[or]]~~ the Planning Commission, or Ethics Commission shall file with the Municipal Custodian at or before the same time that person's application is filed, the statement required by this division, for the calendar year immediately preceding the year in which that application is filed.]]~~

~~[[d)]]~~ (c) An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial

disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.

[(e)] (d) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a financial disclosure statement within 60 days after leaving office. The financial disclosure statement shall cover the prior calendar year and the portion of the current calendar year that the individual held office.

[(d)] [(f)] (e) [If [the] a candidate's nomination petition for elective office is filed prior to January 1 of the year in which the election is held, the candidate shall, on or before April 1, file a supplementary statement for the calendar year immediately preceding the election. ] All statements filed pursuant to this section shall be under oath or affirmation.

[(g) If [he] a candidate fails to [do so] file a financial disclosure statement required by this section [16-63(f)], after written notice [of his obligation, given] is provided by the City Clerk at least twenty (20) days prior to the last day for the withdrawal of candidacy, he/she shall be deemed to have withdrawn from candidacy.]]

[(e)] [(h)] (f) The City shall not accept any nominating petition unless a statement in proper form has been filed[, nor shall any person be appointed to the Board of Appeals, Historic District Commission, or the Planning Commission unless a statement in proper form has been filed].

[(f)] [(i)] (g) All statements filed pursuant to this division shall be maintained by the Municipal Custodian and shall be made available during normal office hours for examination and copying by the public, subject, however, to such reasonable fees and administrative procedures as the Municipal Custodian may establish from time to time. All statements shall be retained as public records for at least [two (2)] four (4) years from the date of their receipt by the Municipal Custodian.

[(g)] (j) The [City] Commission shall provide forms for use in the filing of the statements required by this division to the persons required to file statements under this division. Forms shall be made initially available by the Municipal Custodian.

(k) The Municipal Custodian shall require that any person examining or copying such statements shall record his/her name, home address, and the name of the person whose disclosure statement was examined or copied. The Municipal Custodian shall [if requested] furnish to the person whose financial disclosure statement is being examined or copied the names and addresses of the persons examining or copying said financial disclosure statement.

#### **Sec. 16-64. Contents of statement**

The statement required to be filed by this division shall contain schedules disclosing the following interests of the person making the statement, together with the



following information, for the [[calendar year for which the required statement is to be filed]] filing year:

(1) A schedule of all interests (including leasehold interests and interests in any oil, gas or other mineral royalty or lease) in or with respect to any real property [in the state] wherever located. This schedule, as to each such interest, shall include:

a. The nature of the property and the location by street address, mailing address or legal description of the property;

b. The nature and extent of the interest held, including any conditions thereto and encumbrances thereon;

c. The date when, the manner in which, the identity of the person from whom the interest was acquired;

d. The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

e. With respect to any interest transferred, in whole or in part, at any time during the year for which the statement is filed, a description of the interest transferred, the nature and amount of the consideration received in exchange therefor and the identity of the person to whom the interest was transferred; and

f. The identity of any other person with an interest in the property;

(2) A schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, whether or not the corporation or partnership does business with the City. This schedule, as to each such interest, shall include:

a. The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

b. The nature and amount of the interest held, including any conditions thereto and encumbrances thereon; provided, however, that an amount of stock or like evidence of equity interest, at the option of the person making the report, may be reported by the number of shares held, and, unless the corporation's stock is publicly traded on a stock exchange, in an over-the-counter market, or otherwise, the percentage of equity interest so held, instead of by dollar amount; and

c. With respect to any interest transferred, in whole or in part, at any time during the filing year [[for which the statement is filed]], a description of the interest transferred, the nature and amount of the consideration received in exchange therefor and, if known, the identity of the person to whom the interest was transferred;

d. The date when, the manner in which, and the identity of the person from whom the interest was acquired;

e. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(3) A schedule of all interests in any other business entity which does business with the City. This schedule, as to each such interest, shall include:

a. The name and address of the principal office of the business entity;

b. The nature and amount of the interest held, including any conditions thereto and encumbrances thereon; and

c. With respect to any interest transferred, in whole or in part, at any time during the year for which the statement is filed, a description of the interest transferred, the nature and amount of the consideration received in exchange therefor and the identity of the person to whom the interest was transferred;

d. The date when, the manner in which, and the identity of the person from whom the interest was acquired;

e. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) [[A schedule of all interests acquired during the reporting period shall include:

a. The date when, the manner in which, and the identity of the person from whom the interest was acquired;

b. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired. ]]

~~[(4)]~~ ~~[(5)]~~ (4) A schedule of each gift in excess of [twenty-five dollars (\$25.00)] Twenty Dollars (\$20.00) in value, or a series of gifts totaling one hundred dollars (\$100.00) or more from any one (1) person received at any time during the year for which the statement is filed by the person making the statement, or by any other person at the direction of the person making the statement, from, or on behalf of, directly or indirectly, any person who does business with the city or is regulated by the City; provided, however, gifts received from parents, spouses or children, campaign contributions which are otherwise reported as required by law, and meals and beverages need not be disclosed. This schedule, as to each such gift, shall include:

- a. A description of t[T]he nature and value of the gift; and
- b. The identity of the person from whom or on behalf of whom, directly or indirectly the gift was received;

~~[(5)]~~ ~~[(6)]~~ (5) A schedule of all offices, directorships and salaried employment held by the individual or member of the immediate family of the individual at any time during the filing year ~~[[for which the statement is filed]]~~ in any corporation or other business entity which does business with the municipality. This schedule, as to each such office, directorship or salaried employment shall include:

- a. The name and address of the principal office of the business entity;
- b. The name of each City department with which the entity is involved;

~~[[b]]~~ (c). The title and nature of the office, directorship or salaried employment held and the date it commenced; and

~~[[c]]~~ (d). The total amount of compensation received from the corporation or other business entity during the filing year ~~[[for which the statement is filed]]~~;

~~[(6)]~~ ~~[(7)]~~ (6) A schedule of all liabilities, excluding retail credit accounts, to any person doing business with the City owed at any time during the filing year ~~[[for which the statement is filed]]~~, by the individual or by a member of the immediate family of the individual if the individual [excluding retail credit accounts of the person making the statement and consumer (\$1,500.00 or less) or automobile loans made by banks, savings and loan associations or credit unions to the person making the statement; and all liabilities to any person doing business with the City owed at any time during the year for which the statement is filed, excluding retail credit accounts of the spouse or child of the person making the

statement and consumer (\$1,500.00 or less) or automobile loans made by banks, savings and loan associations or credit unions to the spouse or child of the person making the statement, if the person] making the statement was involved in the transaction giving rise to liability. This schedule, as to each such liability, shall include:

a. The identity of the person to whom the liability was owed and the date the liability was incurred;

b. The amount of the liability owed [[as]] at the end of the filing year [[for which the statement is filed]];

c. The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

d. The security given, if any, for the liability;

[(7)] [[(8)]] (7) A list of all members of the immediate family of the person making statements required by this article who are employed by the City in any capacity. [For the purpose of this paragraph, "immediate family" includes only spouse and dependent children.]

[(8)] [[(9)]] (8) A schedule of all [major] sources of income [(in excess of one thousand dollars (\$1,000.00) for] including the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received income at any time during the one (1) year period ending with the date of the statement [ ) of the person making the statement,] including an identification of the sources of the income, the nature of the income (whether salary, commission, interest, or other form of income), but not including the amount thereof. A minor child's employment or business ownership need not be disclosed if the department that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child;

[(9)] [[(10)]] (9) Such additional interests or information as the person making the statement might desire to make.

**Sec. 16-65. Interests attributable to persons making statements.**

For the purposes of section 16-64, paragraphs (1), (2) and (3) and the disclosures therein required, the following shall be considered to be the interests of the person making the statement:

(1) Any interest held by the [spouse or a child] immediate family of the person making the statement, if such interest was at any time during the filing year [[for which the statement is filed]] directly or indirectly controlled by the person making the statement;

(2) Any interest held by a business entity, in which business entity a thirty (30) percent or greater equity was held at any time during the filing year [[for which the statement is filed an interest of]] by the person making the statement;

(3) Any interest held by a trust or estate, [other than a common trust fund,] under which the person making the statement held a reversionary interest at any time during the filing year [[for which the statement is filed]], or under which trust the person making the statement was at any time during that year a trustor, if a revocable trust, or a beneficiary.

### DIVISION 3. MEMBERS OF DESIGNATED BOARDS AND COMMISSIONS

#### **Sec. 16-66. Scope.**

All members of and applicants for appointment to the designated boards and commissions are required to file the statements required in this division.

#### **Sec. 16-67. Removal for failure to file financial disclosure statement.**

In addition to any other penalties and enforcement actions provided for in this chapter, failure to file a financial disclosure statement under section 16-68 shall constitute cause for removal of any designated board or commission member from office. Upon the failure of any designated board or commission member to file his/her financial disclosure statement as required, the Council shall hold a public hearing for the purpose of considering the removal of the member of the designated board or commission from office as provided for under the provisions of Article 23A, section 2(b)(25) of the Annotated Code of Maryland, presently in effect and as may be amended from time to time. Failure to file a financial disclosure statement as required by this chapter shall be prima facie evidence of nonfeasance in office.

#### **Sec. 16-68. Statement required.**

(a) Each member of a designated board or commission shall file with the Municipal Custodian, on or before April 15 of each year during the person's term in office, the statement required by this division, for the calendar year immediately preceding each such year in office. The statement shall be under oath or affirmation.

(b) Except for a person who has filed a statement pursuant to subsection (a) for the same year or portion of the same year for which a statement would otherwise be required to be filed by this subsection, each applicant for appointment to a designated board or commission shall file with the Municipal Custodian at or before the same time that person's application is filed, the statement required by this division, for the calendar year immediately preceding the year in which that application is filed.

(c) A person shall not be appointed to a designated board or commission unless a statement in proper form has been filed.

(d) All statements filed pursuant to this division shall be maintained by the Municipal Custodian and shall be made available during normal office hours for examination and copying by the public, subject, however, to such reasonable fees and administrative procedures as the Municipal Custodian may establish from time to time. All statements shall be retained as public records for at least two (2) years from the date of their receipt by the Municipal Custodian.

(e) The Commission shall provide forms for use in the filing of the statements required by this division to the persons required to file statements under this division. Forms shall be made initially available by the Municipal Custodian.

(f) The Municipal Custodian shall require that any person examining or copying such statements shall record his/her name, home address, and the name of the person whose disclosure statement was examined or copied. The Municipal Custodian shall furnish to the person whose financial disclosure statement is being examined or copied the names and addresses of the persons examining or copying said financial disclosure statement.

#### **Sec. 16-69. Contents of statement**

The statement required to be filed by this division shall contain schedules disclosing the following interests of the person making the statement, together with the following information, for the filing year:

(1) A schedule of all interests (including leasehold interests and interests in any oil, gas or other mineral royalty or lease) in or with respect to any real property in the state. This schedule, as to each such interest, shall include:

a. The nature of the property and the location by street address, mailing address or legal description of the property;

b. The nature and extent of the interest held, including any conditions thereto and encumbrances thereon;

c. The date when, the manner in which, the identity of the person from whom the interest was acquired;

d. The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

e. With respect to any interest transferred, in whole or in part, at any time during the year for which the statement is filed, a description of the interest transferred, the nature and amount of the consideration received in exchange therefor and the identity of the person to whom the interest was transferred; and

f. The identity of any other person with an interest in the property;

(2) A schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, whether or not the corporation does business with the City. This schedule, as to each such interest, shall include:

a. The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

b. The nature and amount of the interest held, including any conditions thereto and encumbrances thereon; provided, however, that an amount of stock or like evidence of equity interest, at the option of the person making the report, may be reported by the number of shares held, and, unless the corporation's stock is publicly traded on a stock exchange, in an over-the-counter market, or otherwise, the percentage of equity interest so held, instead of by dollar amount; and

c. With respect to any interest transferred, in whole or in part, at any time during the filing year, a description of the interest transferred, the nature and amount of the consideration received in exchange therefor and, if known, the identity of the person to whom the interest was transferred;

(3) A schedule of all interests in any other business entity which does business with the City. This schedule, as to each such interest, shall include:

a. The name and address of the principal office of the business entity;

b. The nature and amount of the interest held, including any conditions thereto and encumbrances thereon; and

c. With respect to any interest transferred, in whole or in part, at any time during the year for which the statement is filed, a description of the interest transferred, the nature and amount of the consideration received in exchange therefor and the identity of the person to whom the interest was transferred;

(4) A schedule of each gift in excess of twenty-five dollars (\$25.00) in value, or a series of gifts totaling one hundred dollars (\$100.00) or more from any one (1) person received at any time during the year for which the statement is filed by the person making the statement, or by any other person at the direction of the person making the statement, from, or on behalf of, directly or indirectly, any person who does business with the city or is regulated by the City; provided, however, gifts received from parents, spouses or children, campaign contributions which are otherwise reported as required by law, and meals and beverages need not be disclosed. This schedule, as to each such gift, shall include:

a. The nature and value of the gift; and

b. The identity of the person from whom or on behalf of whom, directly or indirectly the gift was received;

(5) A schedule of all offices, directorships and salaried employment held at any time during the filing year in any corporation or other business entity which does business with the municipality. This schedule, as to each such office, directorship or salaried employment shall include:

a. The name and address of the principal office of the business entity;

b. The title and nature of the office, directorship or salaried employment held; and

c. The total amount of compensation received from the corporation or other business entity during the filing year;

(6) A schedule of all liabilities to any person doing business with the City owed at any time during the filing year, excluding retail credit accounts of the person making the statement and consumer (\$1,500.00 or less) or automobile loans made by banks, savings and loan associations or credit unions to the person making the statement; and all liabilities to any person doing business with the City owed at any time during the year for which the statement is filed, excluding retail credit accounts of the spouse or child of the person making the statement and consumer (\$1,500.00 or less) or automobile loans made by banks, savings and loan associations or credit unions to the spouse or child of the person making the



statement, if the person making the statement was involved in the transaction giving rise to liability. This schedule, as to each such liability, shall include:

- a. The identity of the person to whom the liability was owed;
- b. The amount of the liability owed at the end of the filing year;
- c. The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
- d. The security given, if any, for the liability;

(7) A list of all members of the immediate family of the person making statements required by this article who are employed by the City in any capacity. For the purpose of this paragraph, "immediate family" includes only spouse and dependent children.

(8) A schedule of all major sources of income (in excess of one thousand dollars (\$1,000.00) for the one (1) year period ending with the date of the statement, including an identification of the sources of the income, the nature of the income (whether salary, commission, interest, or other form of income), but not including the amount thereof;

(9) Such additional interests or information as the person making the statement might desire to make.

#### **Sec. 16-70. Interests attributable to persons making statements.**

For the purposes of section 16-69, paragraphs (1), (2) and (3) and the disclosures therein required, the following shall be considered to be the interests of the person making the statement:

(1) Any interest held by the spouse or a child of the person making the statement, if such interest was at any time during the filing year directly or indirectly controlled by the person making the statement;

(2) Any interest held by a business entity, in which business entity a thirty (30) percent or greater equity was held at any time during the filing year by the person making the statement;

(3) Any interest held by a trust other than a common trust fund, under which the person making the statement held a reversionary interest at any time during the

filing year, or under which trust the person making the statement was at any time during that year a trustor, if a revocable trust, or a beneficiary.

#### **ARTICLE IV. LOBBYING DISCLOSURES**

##### **Sec. 16-76. Lobbying disclosures.**

(a) Any person who personally appears before any City official or employee with the intent to influence that person in the performance of his official duties, and who, in connection with such intent expends or reasonably expects to expend in a given calendar year in excess of two hundred fifty dollars (\$250.00) in the aggregate or fifty dollars (\$50.00) on any single official or employee on food, entertainment or other gifts for such officials, shall file a registration statement with the Municipal Custodian not later than January 15 of the calendar year or within five (5) days after first making these appearances.

(b) The registration statement shall include complete identification of the registrant and of any other persons on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make these appearances. The registration statement shall cover a defined registration period not to exceed one calendar year.

(c) Registrants under this section shall file a report within thirty (30) days after the end of any calendar year during which they were registered, disclosing the value, date, and nature of any food, entertainment or other gift provided to a City official or employee. When a gift or series of gifts to a single official or employee exceeds fifty dollars (\$50.00) in value, the official or employee shall also be identified. [[ The registration statement shall cover a defined registration period not to exceed one calendar year. ]]

(d) The registrations and reports filed pursuant to this section shall be maintained by the Municipal Custodian as public records available for public inspection and copying.

#### **ARTICLE V. EXEMPTIONS AND MODIFICATIONS**

##### **Sect. 16-80. Exemptions and Modifications – Authorized**

(a) The Commission may grant exemptions and modifications to the provisions of [[Sections 4 and 6]] Articles II and III (conflicts of interest and Financial disclosures) of this Chapter to employees and to appointed members of the City Boards and Commissions, when the Commission finds that an exemption or modification would not be contrary to the purposes of this Chapter, and the application of this Chapter would:

(1) Constitute an unreasonable invasion of privacy; and  
(2) Significantly reduce the availability of qualified persons for public  
service.

(b) The granting of an exemption and/or modification by the Commission is  
discouraged.

NOTE:        [Brackets] indicate material deleted  
                 Underlining indicates material added  
                 [[Double brackets]] indicate material deleted after introduction  
                 Double Underlining indicates material added after introduction

\* \* \* \* \*

I hereby certify that the foregoing is a true and correct copy of an ordinance  
adopted by the Mayor and Council at its meeting of

\_\_\_\_\_  
Douglass Barber, City Clerk